

DO NOT PUBLISH

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-10506

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT DECEMBER 8, 2006 THOMAS K. KAHN CLERK

D. C. Docket No. 03-14387-CV-DLG

CITY OF STUART, a municipality
and political subdivision of
the State of Florida,

Plaintiff-Counter-
Defendant-Appellant,

versus

NORTHROP GRUMMANSYSTEMS CORPORATION,
and as a successor to
f.k.a. Grumman Aerospace Corporation,

Defendant-Counter-
Claimant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(December 8, 2006)

Before ANDERSON and BARKETT, Circuit Judges, and GOLDBERG,* Judge.

*Honorable Richard W. Goldberg, Judge, United States Court of International Trade, sitting by
designation.

PER CURIAM:

After oral argument and careful consideration, we conclude that the judgment of the district court is due to be affirmed for the reasons fully discussed at oral argument. We agree with the district court that paragraph two of the contract is unambiguous, and provides that the 1.3 million gallons per day requirement is suspended to the extent that the aquifer underlying the site is deficient, so long as the shortfall is through no fault of Grumman. The district court found as a fact that the shortfall challenged in the instant case resulted from such aquifer deficiency, and appellant has wholly failed to demonstrate that the finding is clearly erroneous. Although the district court is probably correct with respect to several of its alternative findings, which would also indicate the same judgment in favor of appellee, we need not address such alternative grounds in light of our holding.

According, the judgment of the district court is

AFFIRMED.